UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,416	12/14/2001	Akihiro Matsuya	35.G2965	9763

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER
LEE, TOMMY D

ART UNIT	PAPER NUMBER ·
2624	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _14 December 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-13_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,3/1,4/1,5/1,6/5/1,8/6/5/1,9,11/9,12/9 and 13_ is/are rejected.

7)☒ Claim(s) _2,3/2,4/2,5/2,6/5/2,7/6/5/2,8/6/5/2,10,11/10 and 12/10_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _4/23/02_.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which

papers have been placed of record in the file.

Specification

The lengthy specification has not been checked to the extent necessary to

determine the presence of all possible minor errors. Applicant's cooperation is

requested in correcting any errors of which applicant may become aware in the

specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

Claims 1, 3/1, 4/1, 5/1, 6/5/1, 8/6/5/1, 9, 11/9, 12/9 and 13 are rejected under 35

U.S.C. 102(e) as being anticipated by U.S. Patent 6,449,060 (Kawai).

The applied reference has a common inventor/assignee with the instant

application. Based upon the earlier effective U.S. filing date of the reference, it

constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e)

might be overcome either by a showing under 37 CFR 1.132 that any invention

disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1, 3, 4 and 13, Kawai discloses an image processing apparatus for determining whether or not a chromatic color is included within image data having a predetermined number of pixels in each of a first direction and a second direction orthogonal to the first direction, said apparatus comprising: first determination means for temporarily determining for each pixel string in the first direction that the pixel string is a chromatic pixel string, when a frequency of appearance of pixels determined to be chromatic according to a predetermined condition consecutively by a first number is larger than a second number (first number (M) of chromatic color pixels successively present in main scanning direction greater than or equal to second number (2) (column 23, lines 55-57)); second determination means for determining a frequency of appearance of the pixel string temporarily determined by said first determination means consecutively by a third number (successive pixels appear in the line of interest at a third number (N) of positions (column 23, lines 58-60)); and third determination means for determining whether or not a chromatic color is included in the image data, based on a result determination by said first determination means and a result of determination by said second determination means (line of interest determined to be chromatic color line if M and N are greater than or equal to 2, image determined to be color if L (>2) chromatic color lines successively appear (column 23, lines 55-63)). Said third determination means determines that the image data includes a chromatic color when

the number of pixel strings temporarily determined by said first determination means

equals at least a fourth number (M greater than or equal to 2 (note that the claim does

not differentiate between the fourth number and the second number recited in claim 1)),

and the frequency determined by said second determination means equals at least a

fifth number (N greater than or equal to 2 (note that the claim does not differentiate

between the fifth number and the third number recited in claim 1)). The image data is

read by sequentially scanning an image of an original in the first direction and the

second direction (CCD image sensor (column 6, lines 10-13) inherently reads in scan

and subscan directions so as to read the whole original). A storage medium, capable of

being read by a computer, is provided for storing a program for controlling the image

processing apparatus of claim 1 (column 33, line 58 – column 34, line 4).

Regarding claims 5, 6 and 8, Kawai discloses an image forming apparatus

comprising: an image processing apparatus according to claim 1 (note rejection of claim

1 above), wherein image formation is performed by providing a color image from the

image data determined to include the chromatic color by said image processing

apparatus, and providing a monochromatic image from image data other than the

determined image data (originals determined to be monochrome, as opposed to color

originals, processed using the black (K) component alone (column 22, lines 4-11)). The

image forming apparatus further comprises image reading means for reading an image

of an original by sequentially scanning the image in the first direction and the second

direction, and supplying said image processing apparatus with read data as the image

data (CCD image sensor, which inherently reads in scan and subscan directions so as

to read the whole original, sends color-separated signals to image processing unit

(column 6, lines 15-18)). Determination by said image processing apparatus is

performed for image data to be subjected to image formation (image data in document

read by scanner inherently subject to image formation as a result of the presence of

printer unit (column 5, line 65 – column 6, line 3).

Regarding claims 9, 11 and 12, Kawai discloses a method for controlling an

image processing apparatus for determining whether or not a chromatic color is

included within image data having a predetermined number of pixels in each of a first

direction and a second direction orthogonal to the first direction, said method

comprising: a first determination step of temporarily determining for each pixel string in

the first direction that the pixel string is a chromatic pixel string, when a frequency of

appearance of pixels determined to be chromatic according to a predetermined

condition consecutively by a first number is larger than a second number (first number

(M) of chromatic color pixels successively present in main scanning direction greater

than or equal to second number (2) (column 23, lines 55-57)); second determination

step of determining a frequency of appearance of the pixel string temporarily

determined in said first determination step consecutively by a third number (successive

pixels appear in the line of interest at a third number (N) of positions (column 23, lines

58-60)); and a third determination step of determining whether or not a chromatic color

is included in the image data, based on a result of determination in said first

determination step and a result of determination in said second determination step (line

of interest determined to be chromatic color line if M and N are greater than or equal to

2, image determined to be color if L (>2) chromatic color lines successively appear

(column 23, lines 55-63)). In said third determination step, it is determined that the

image data includes a chromatic color when the number of pixel strings temporarily

determined in said first determination step equals at least a fourth number (M greater

than or equal to 2 (note that the claim does not differentiate between the fourth number

and the second number recited in claim 9)), and the frequency determined in said

second determination step equals at least a fifth number (N greater than or equal to 2

(note that the claim does not differentiate between the fifth number and the third number

recited in claim 9)). The image data is read by sequentially scanning an image of an

original in the first direction and the second direction (CCD image sensor (column 6,

lines 10-13) inherently reads in scan and subscan directions so as to read the whole

original).

Allowable Subject Matter

Claims 2, 3/2, 4/2, 5/2, 6/5/2, 7/6/5/2, 8/6/5/2, 10,11/10 and 12/10 objected to as

being dependent upon a rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening

claims.

The following is a statement of reasons for the indication of allowable subject

matter: No prior art has been found to disclose or suggest applicant's image processing

apparatus and method of claims 1 and 9, respectively, "wherein at least one of the first

number and the second number, and the third number have different values," as recited

in claims 2 and 10, or applicant's image forming apparatus of claim 6, "wherein

determination by said image processing apparatus is performed for image data not to be subjected to image formation," as recited in claim 7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Lee whose telephone number is (571) 272-7436. The examiner can normally be reached on M-F 7:30-5:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tdl
November 14, 2005

THOMAS D LEE
PRIMARY EXAMINER